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September 5, 2021

The Honorable Claire C. Cecchi, U.S.D.J.
United States District Court of New Jersey
M.L. King Jr. Federal Building and Courthouse
Newark, NJ 07102

Re: KIO v. ARSTRAT, LLC,
2:20-cv-10133-CCC-AME

Dear Judge Cecchi:

I represent the Plaintiff in the above-referenced class action FDCPA lawsuit. I write in response to the Defendant's recently filed Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) for lack of Article III Standing, returnable on September 20, 2021 and which is based upon the U.S. Supreme Court's recent decision in Transunion, LLC v. Ramirez, 594 U.S. ___, 141S.Ct. 2190 (2021). (Dkt. No. 23). Defendant argues in the Motion that Plaintiff does not have standing to bring the present case in this Court since Plaintiff lacked concrete injury of fact, and thus Article III standing to maintain this action in federal court.

Based upon the recent Ramirez decision, Plaintiff does not oppose dismissal of the present case based solely upon a lack of Article III standing. **Dismissal of the case should be made without prejudice** since the District Court lacks subject matter jurisdiction as to Plaintiff and the putative class. See, Kamal v. J. Crew Grp., Inc., 918 F.3d 102, 119 (3d Cir. 2019); Cottrell v. Alcon Labs., 874 F.3d 154, 164 n.7 (3d Cir. 2017) (stating that "[b]ecause the absence of standing leaves the court without subject matter jurisdiction to reach a decision on the merits, dismissals 'with prejudice' for lack of standing are generally improper").

Plaintiff intends to refile the present action in New Jersey state court.

Thank you for your consideration.

Very truly yours,

Case is dismissed without prejudice.
SO ORDERED

/s/Lawrence Hersh
Lawrence Hersh

s/Claire C. Cecchi
Claire C. Cecchi, U.S.D.J.

Date: 2/1/2022